

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CALVIN BURKE,)	
)	
)	
Plaintiff,)	No. 4:14-CV-2107 RLW
)	
v.)	
)	
ST. LOUIS CITY JAILS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's Motion for Default Judgment (ECF No. 97). Plaintiff asks the Court to enter a default judgment against Defendant Derek Peterson for failing to respond to his Complaint. Plaintiff notes that Defendant Peterson was served with a summons and a copy of Plaintiff's Second Amended Complaint on November 4, 2015. (ECF No. 61). Defendant Peterson filed a Motion to Dismiss on December 2, 2015 (ECF No. 68). The Motion to Dismiss was denied on March 14, 2016. (ECF No. 87). On September 6, 2016, Plaintiff filed a Motion for Default Judgment against Defendant Peterson. (ECF No. 97). On September 19, 2016, Defendant Peterson filed a Separate Answer to Plaintiff's Second Amended Complaint. (ECF No. 102).

The Court will deny Plaintiff's Motion for Default Judgment (ECF No. 97). Defendant Peterson's Answer was out of time. However, the untimely answer appears to have been a mere oversight, given that Defendant Peterson had previously filed a Motion to Dismiss. The Court further notes that this case is ongoing, and Plaintiff has not been prejudiced by Defendant Peterson's delay in answering the Second Amended Complaint.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Default Judgment (ECF No. 97) is **DENIED**.

Dated this 20th day of September, 2016.

A handwritten signature in dark ink, reading "Ronnie L. White", written in a cursive style. The signature is positioned above a horizontal line.

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE